

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: TAJ Investments, Inc.)
a/k/a M & D Hospitality, LLC) Shelby County
Ward 060, Block 220, Parcel 00073)
Tax Years 2003-2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as summarized in exhibit A.

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on August 22, 2007 in Memphis, Tennessee. In attendance at the hearing were registered agent Robert Kahn, and Shelby County Property Assessor's representatives John Zelinka, Esq. and Larry Bankston.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The parties stipulated subject property should be valued as summarized in exhibit B. The sole issue before the administrative judge concerns jurisdiction.

The threshold jurisdictional issue pertains to the accrual of delinquent taxes. Pursuant to Tenn. Code Ann. § 67-5-1512(b)(1)(c), the administrative judge had previously entered an order holding the appeals in abeyance. The administrative judge finds that the taxpayer has since paid all outstanding taxes and the matter is properly before the State Board of Equalization for hearing.

The other possible jurisdictional issue concerned the fact the taxpayer filed a direct appeal with the State Board of Equalization for tax year 2003 without having first appeared before the Shelby County Board of Equalization. The administrative judge finds that the taxpayer properly filed a direct appeal with the State Board of Equalization due to a clerical error by the Shelby County Board of Equalization.

The administrative judge finds that the pertinent facts were summarized in a memorandum dated December 22, 2004 from David Newsom, the Director of the Shelby County Board of Equalization, to the State Board of Equalization which provided in relevant part as follows:

For the tax year 2003, Petree & Evans filed an appeal on behalf of the owner for the above referenced parcel. Subsequently, Petree & Evans sent us a letter withdrawing their representation, but stipulating that the taxpayer would be representing himself. Due to a misunderstanding by our staff, the entire appeal was

withdrawn instead of just the representation by Petree & Evans. We should not have withdrawn the appeal – we should have scheduled it for a hearing and notified the taxpayer.

Since a timely appeal was submitted to us and was not hard, and the hearings by the local board have concluded for 2003, we have advised the owner to file an appeal with you by sending him a copy of this memorandum to file with his appeal. If we can be of any further assistance, please let us know.

The administrative judge finds that the taxpayer's appeal was received by the State Board of Equalization on December 28, 2004 and the taxpayer is properly before the Board for tax year 2003.

ORDER

It is therefore ORDERED that the values and assessments set forth in exhibit B are hereby adopted for tax years 2003-2006.

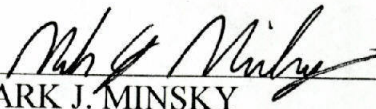
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Robert N. Kahn
John Zelinka, Esq.
Tameaka Stanton-Riley, Appeals Manager

EXHIBIT A

<u>Tax Year</u>	<u>Land Value (\$)</u>	<u>Improvement Value (\$)</u>	<u>Total Value (\$)</u>	<u>Assessment (\$)</u>
2003	400,900	1,635,500	2,036,400	814,560
2004	400,900	1,635,500	2,036,400	814,560
2005	363,900	1,688,200	2,052,100	820,840
2006	363,900	1,688,200	2,052,100	820,840

EXHIBIT B

<u>Tax Year</u>	<u>Land Value (\$)</u>	<u>Improvement Value (\$)</u>	<u>Total Value (\$)</u>	<u>Assessment (\$)</u>
2003	400,900	599,100	1,000,000	400,000
2004	400,900	599,100	1,000,000	400,000
2005	363,900	840,500	1,204,400	481,700
2006	363,900	840,500	1,204,400	481,700